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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,510	10/12/2000	John J. Gabrick	MINMAT.P02	1134
7590 Patrick M. Dwyer PC Suite 114 1818 Westlake Avenue N Seattle, WA 98109		05/22/2007	EXAMINER TO, BAOQUOC N	
			ART UNIT 2162	PAPER NUMBER
			MAIL DATE 05/22/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Office Action Summary</b></p>	<p><b>Application No.</b></p> <p>09/687,510</p>	<p><b>Applicant(s)</b></p> <p>GABRICK ET AL.</p>	
	<p><b>Examiner</b></p> <p>Baoquoc N. To</p>	<p><b>Art Unit</b></p> <p>2162</p>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>09/12/06, 09/25/06</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The Office withdraws both the finality and the indication of claims allowance 12-16 dated on 09/20/2005. The Office regrets any inconveniences due to the applicant.

Claims 1-11 are canceled and claims 12-16 are amended in the amendment filed on 10/20/2005. Claims 12-16 are pending in this application.

### ***Oath/Declaration***

2. Oath/Declaration is corrected and accepted 10/12/2004 by examiner.

### ***Priority***

3. This application claimed the benefit of provisional 60/159,129 filed on 10/12/1999.

### ***Drawings***

4. The drawing filed 10/12/2000 is not formal. New formal drawing is required.

### ***Specification***

5. The abstract of the disclosure is objected to because abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. Correction is required. See MPEP § 608.01(b).

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### **Information Disclosure Statement**

6. The information disclosure statement (IDS) submitted on was filed 03/16/2006 and 09/26/2006. The submission is in compliance with the provisions of 37 CFR 1.97.

Accordingly, the information disclosure statement is being considered by the examiner.

### ***Response to Arguments***

7. Applicant's arguments with respect to claim 12 have been considered but are moot in view of the new ground(s) of rejection.

### ***37 C.F.R 105***

8. Applicant filed a response to 105 requirement is acknowledged by the examiner.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claim 12 is provisionally rejected on the ground of nonstatutory double patenting over claim 2 of copending Application No. 10/459,116. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows:

09/687510

10/459116 (Co-pending)

A method of web based development and exploitation of Intellectual Property, the method comprising:	A system for web based development and exploitation of IP, the system comprising:
a. attracting a plurality of innovators, each having at least one innovation;	a. an innovator attraction module;
b. attracting at least one developer, the developer having stated requirements and verifiable resources for development of Intellectual Property;	b. a developer attraction module;
c. registering innovation data related to an innovation in database residing on a computer-readable storage medium accessible to and operatively connected to a computer connected to an information network;	c. a registration module;
d. registering developer data related to the developer's stated requirement and	d. a match module;

verifiable resources for development of Intellectual property in the database residing on the computer readable medium accessible to and operatively connected to the computer connected to the information network;	
e. making innovation data available to the developer and developer data available to at least one of the plurality of innovators.	Whereby the registration module is adapted to accept and store dated related to an innovator and the innovator's innovation in an innovation database, and further whereby the match module is adapted to match a registered innovation and innovator with a developer having stated requirements and resources for development.

Although application 116 discloses the system for web based development and exploitation of IP; however, the system in application 116 perform the steps recites in 510. Therefore, it would have obvious to one ordinary skill in the art at the time of the invention was made to include the system in order to perform the method as recited in 510.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

10. Claims 12-16 are provisionally rejected on the ground of nonstatutory double patenting over claims 8-19 of copending Application No. 09/709,900. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows:

09/687,510

09/709,900

12

8

A method of web based development and exploitation of Intellectual Property, the method comprising:	A system for web based development and exploitation of IP, the system comprising:
a. attracting a plurality of innovators, each having at least one innovation;	a. an innovator attraction module;
b. attracting at least one developer, the developer having stated requirements	b. a developer attraction module;



and verifiable resources for development of Intellectual Property;	
c. registering innovation data related to an innovation in database residing on a computer-readable storage medium accessible to and operatively connected to a computer connected to an information network;	c. a registration module;
d. registering developer data related to the developer's stated requirement and verifiable resources for development of Intellectual property in the database residing on the computer readable medium accessible to and operatively connected to the computer connected to the information network;	d. a match module;
e. making innovation data available to the developer and developer data available to at least one of the plurality of innovators.	Whereby the registration module is adapted to accept and store dated related to an innovator and the innovator's innovation in an innovation database, and further whereby the match module is adapted to match a registered innovation

	and innovator with a developer having stated requirements and resources for development.
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Although application 900 discloses the system for web based development and exploitation of IP; however, the system in application 900 perform the steps recites in 510. Therefore, it would have obvious to one ordinary skill in the art at the time of the invention was made to include the system in order to perform the method as recited in 510.

Claims 9-19 are rejected under the same reason as to claim 8.  
Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asplen, Jr (US. Patent No. 6,044, 354) in view of Jiff et al. (US. Patent No. 6,557,013 B1).

As to claim 12, Asplen teaches a method of web-based development and exploitation of Intellectual Property (abstract and fig. 1A), the method comprising:

- a. attracting a plurality of innovators, each having at least one innovation (column 2, lines 45-52 and fig. 1A);
- b. attracting at least one developer, the developer having stated requirements and verifiable resources for development of Intellectual property (col. 2, lines 64 to column 3, line 1-35 and fig. 1A);
- c. registering innovation data related to an innovation in a database residing on a computer readable storage medium accessible to and operatively connected to a computer connected to an information network (column 2, lines 49-60 and fig. 1 and 1A);
- d. registering developer data related to the developer's stated requirements and verifiable resources for development of Intellectual Property in the database residing on the computer readable storage medium accessible to and operatively connected to a computer connected to the information network (column 2, lines 49-60 and fig. 1 and 1A);
- e. making innovation data available to the developer and developer data available to at least one of the plurality of innovators (column 2, lines 59-67 to col. 3, lines 1-9, and fig. 1A).

Asplen does not explicitly teach the method is a web-based development; however, Asplen teaches the method implement in the computer system using wide area network (WAN) and telecommunication lines for Internet and e-mail capability (col. 2, lines 11-14). Jiff discloses using web-based system for developing writing assignment (fig. 1). This suggests the similar concept for developing id or developing an assignment. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to modify Asplen's system to include the developing writing assignment using the web-based as taught by Jiff to allow all the user to participate in the development of the idea.

As to claim 13, Garage discloses the method recited in claim 12, further comprising

f. registering any match up of an innovation with developer in the database residing on the computer readable medium accessible to and operatively connected to the information network (column 2, lines 49-60 and fig. 1 and 1A).

As to claim 14, the method recited in claim 13, further comprising

g. tracking any match up and any match up outcomes in the database residing on the computer readable storage medium accessible to and operatively connected to the computer connected to the information network (column 2, lines 2-14 and column 3, lines 18-35 and column, 5, lines 54-67 and fig. 1 and 1A).

As to claim 15, Asplen teaches the method of claim 12, further:

f. tracking any innovation data updates or changes in the database residing on the computer readable storage medium accessible to and operatively connected to the

Art Unit: 2162

computer connected to information network (column 2, lines 2-14 and column 3, lines 18-35 and column, 5, lines 54-67 and fig. 1 and 1A).

As to claim 16, Asplen teaches the method of claim 12, further comprising:

f. tracking any developer data updates or changes in the database residing on the computer readable medium accessible to and operatively connected to the information network (column 2, lines 2-14 and column 3, lines 18-35 and column, 5, lines 54-67 and fig. 1 and 1A).

12. Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asplen, Jr (US. Patent No. 6,044, 354) in view of Garage.com (Publication date: 12/12/1998).

As to claim 12, Asplen teaches a method of web-based development and exploitation of Intellectual Property (abstract and fig. 1A), the method comprising:

a. attracting a plurality of innovators, each having at least one innovation (column 2, lines 45-52 and fig. 1A);

b. attracting at least one developer, the developer having stated requirements and verifiable resources for development of Intellectual property (col. 2, lines 64 to column 3, line 1-35 and fig. 1A);

c. registering innovation data related to an innovation in a database residing on a computer readable storage medium accessible to and operatively connected to a computer connected to an information network (column 2, lines 49-60 and fig. 1 and

Art Unit: 2162

1A);

d. registering developer data related to the developer's stated requirements and verifiable resources for development of Intellectual Property in the database residing on the computer readable storage medium accessible to and operatively connected to the computer connected to the information network (column 2, lines 49-60 and fig. 1 and 1A);

e. making innovation data available to the developer and developer data available to at least one of the plurality of innovators (column 2, lines 59-67 to col. 3, lines 1-9, and fig. 1A).

Asplen does not explicitly teach the method is a web-based development; however, Asplen teaches the method implement in the computer system using wide area network (WAN) and telecommunication lines for Internet and e-mail capability (col. 2, lines 11-14). Garage discloses "Heaven for investors. Find startup companies that match your investment criteria, Garage for entrepreneurs. Registering and find valuable resources to help build your business, Newsroom Browse stories, opinions, and article of interest to high tech investors and entrepreneur, the method being developed in the web-based system)" (page 1). This suggests the web-based system of attracting entrepreneur, attracting the investors, allowing the investor to locate the entrepreneur and tracking the outcome of entrepreneur. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to modify Asplen's system to include the web-based system of attracting entrepreneur, attracting the investors, allowing the investor to locate the entrepreneur and tracking the outcome of

Art Unit: 2162

entrepreneur by Garage to allow all the user to participate in the development of the idea.

As to claim 13, Garage discloses the method in claim 12, further comprising

f. registering any match up of an innovation with developer in the database residing on the computer readable medium accessible to and operatively connected to the information network (column 2, lines 49-60 and fig. 1 and 1A).

As to claim 14, the method in claim 13, further comprising

g. tracking any match up and any match up outcomes in the database residing on the computer readable storage medium accessible to and operatively connected to the computer connected to the information network (column 2, lines 2-14 and column 3, lines 18-35 and column, 5, lines 54-67 and fig. 1 and 1A).

As to claim 15, Asplen teaches the method of claim 12, further:

f. tracking any innovation data updates or changes in the database residing on the computer readable storage medium accessible to and operatively connected to the computer connected to information network (column 2, lines 2-14 and column 3, lines 18-35 and column, 5, lines 54-67 and fig. 1 and 1A).

As to claim 16, Asplen teaches the method of claim 12, further comprising:

f. tracking any developer data updates or changes in the database residing on the computer readable medium accessible to and operatively connected to the information network (column 2, lines 2-14 and column 3, lines 18-35 and column, 5, lines 54-67 and fig. 1 and 1A).

**Contact Information**

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baoquoc N. To whose telephone number is at 571-272-4041, or unofficial fax number for the purpose of discussion (571) 273-4041 or via e-mail BaoquocN.To@uspto.gov. The examiner can normally be reached on Monday-Friday: 8:00 AM – 4:30 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached at 571-272-4107.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231.


The fax numbers for the organization where this application or proceeding is assigned are as follow:

(571) 273-8300 [Official Communication]

BQ To

*BO*

April 12th, 2007

  
JOHN BREENE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100